



15 MAY 2008

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Joseph G. Nauman
696 Renolda Woods Ct.
Dayton, OH 45429-3415

In re Application of :
Dale A. Gepfrey *et al* :
Application No.: 10/762,415 :
Filing Date: January 22, 2004 :
Attorney Docket No.: GII 001 P2 US :
For: WATER-TIGHT WINDOWS WITH :
PREFORMED CORNERS :

DECISION

This decision is in response to applicants' petition under 37 CFR 1.181 filed February 4, 2008.

The sole issue to be decided by this office is whether the above-captioned application should have been treated as a national stage application under 35 U.S.C. 371 of PCT/US2002/023360.

Any intended filing of an international application as a national stage application must clearly be identified as such and must satisfy all the conditions set forth in 35 U.S.C. 371(c). Otherwise, the submission will be considered as being made under 35 U.S.C. 111(a). 37 CFR 1.495(g). In addition, section 1893.03(a) of the Manual of Patent Examining Procedure states, in part:

In accordance with the notice at 1077 O.G. 13 (14 April 1987) . . . if there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a).

A review of the subject application shows that the transmittal letter filed with the original submission on January 22, 2004 stated that:

This is a request for National filing of a U.S. patent application based on International Application Ser. No. PCT/US02/23360 filed 23 July 2002

A request for a "National filing" is an instruction that is applicable to both a filing under 35 U.S.C. 111(a) and 35 U.S.C. 371. This instruction is considered conflicting. As such, the papers deposited on January 22, 2002 constitute a filing under 35 U.S.C. 111(a).

Applicant's petition under 37 CFR 1.181 to have the Office consider the subject application a national stage filing under 35 U.S.C. 371 is hereby **DISMISSED**.

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If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time may be obtained under 37.CFR 1.136(a).

This application is being forwarded to Technology Center 3600 for continued processing in accordance with this decision.

A handwritten signature in black ink that reads "James Thomson". The signature is written in a cursive style with a large, stylized "J" and "T".

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302